



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, September 9, 2004, 7:30 p.m.
777 B Street, Hayward, CA 94541**

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m., by Chair Sacks followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: McKillop, Bogue, Thnay, Peixoto, Zermeño
CHAIRPERSON: Sacks
Absent: COMMISSIONER: One Vacancy

Staff Members Present: Anderly, Lt. Bird, Conneely, Koonze, Patenaude, Pearson, Lens, Macias

General Public Present: Approximately 30

PUBLIC COMMENTS

Peggy Guernsey stated that the automatic front door to the building was not in working order and that the doors were locked prior to the public meeting and the security guard refused to give her information.

PUBLIC HEARINGS

1. Variance No. PL-2004-0273 – Tom Palatino (Applicant/Owner) – Continued from July 29, 2004

Staff report submitted by Assistant Planner Koonze, dated September 9, 2004, was filed

Assistant Planner Koonze presented the staff report. He responded to questions from Commissioners.

Chair Sacks opened the public hearing at 7:47 p.m.

Kent Woodell, speaking on behalf of Tom Palatino, asked that due to the circumstances of Mr. Palatino's health and age, veteran status, and the way that he takes care of his property that special consideration be given to retaining the shed and size of the fence. He further noted that there were numerous violations, similar to those found on Mr. Palatino's property, throughout the neighborhood.

Gloria Rojas stated that she objected to her street parking being removed by the installation of a driveway by Mr. Palatino and wants him to fix it. If the fence is removed garbage will accumulate. Mr. Palatino's fence does not bother anyone on Del Mar. She agreed that there were many violations throughout the neighborhood.

Peggy Guernsey, a Del Mar resident for 32 years, spoke on Mr. Palatino's behalf. She complained about the lack of stop signs. She found about 14 other similar violations.

Chair Sacks closed the public hearing at 8:00 p.m.

Staff responded to questions from the Commissioners.

Commissioner Zermeño asked staff about previous experiences in similar situations. Planning Manager Anderly responded that years ago there was the garage conversion program and added that the garages still had to be brought to code.

Commissioner McKillop inquired about the possibility of granting leniency in this case. Assistant City Attorney Conneely stated it would be in violation of the Zoning Ordinance to grant a variance without proper findings; however, the City could grant some leniency in enforcing the ordinance taking into consideration the applicant's medical condition.

Commissioner Thnay noted that the 4-foot fence height might invite some problems regarding garbage, but he emphasized that there is a greater risk of an accident occurring at the six-foot height level due to lack of visibility for a driver on the street and that Mr. Palatino would be responsible and it was in his own interests to comply.

Commissioner McKillop moved, seconded by Commissioner Thnay, and unanimously carried, that the Planning Commission find the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15305, Class 5 (a), Minor Alteration and Land Use Limitations; and deny the variances subject to the attached findings, and direction to the City Attorney staff to work with the applicant to establish a timeline that would allow him to sufficiently recover from his illness prior to making the required changes.

2. Site Plan Review No. PL-2002-0487 and Variance No. PL-2002-0488 – Mr. & Mrs. John Johnson (Applicant/Owner)

Staff report submitted by Associate Planner Pearson, dated September 9, 2004, was filed.

Associate Planner Pearson presented the staff report. He responded to questions from the Commissioners.

Chair Sacks opened the public hearing at 8:15 p.m.

John Johnson, Applicant/Owner, spoke about the project and noted that he will replace the trees that were removed, as well as the others scheduled for removal.

Suzanne Ilkin, stated she was concerned about traffic and access during construction of the home.

Peggy Guernsey, questioned the setback consideration for one owner and not another. She stated that it was a safety issue and suggested that the Commission stay with the City guidelines.



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Chair Sacks, asked Associate Planner Pearson to clarify design guidelines for this property.

Chair Sacks closed the public hearing at 8:24 p.m.

Associate Planner Pearson responded to questions from Commissioners.

Commissioner Thnay moved, seconded by Commissioner Zermeño, and unanimously passed, that the Planning Commission find that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303 New Construction or Conversion of Small Structures; and approve the site plan review and variance applications subject to the attached findings and conditions of approval, with two additional conditions: 1) require a construction management plan to ensure that Parkside Drive remains safe and passable during construction; and, 2) to recess windows and provide a more decorative garage door.

3. Site Plan Review No. PL-2004-0289 – Administrative Use Permit No. PL-2004-0290 and Variance No. PL-2004-0291 – Dr. Dharam Salwan (Owner)

Staff report submitted by Associate Planner Pearson, dated September 9, 2004, was filed.

Associate Planner Pearson presented the staff report. He responded to questions from the Commissioners.

Chair Sacks opened the public hearing at 8:50 p.m.

Mr. Deepak, project architect, spoke for the applicant and addressed the issues that had been previously requested. He summarized the changes that were made to the plans and answered questions from Commissioners. Dr. Salwan added that he expected the type of business in the building to be real estate or similar and would not create a significant amount of traffic.

Cecilia Vanttoutten complained that the garage to City Hall was closed and that she had a problem with the elevator. She then questioned why Dr. Salwan had not offered to buy her house. She spoke against the project, stating that there are too many rentals in Hayward, and that she would prefer the proposed project space be used for parking.

Lupe Compean spoke against the project reiterating the numerous rental units in the City, and stated that she preferred the space be used for parking, as well.

Randy Smith, Pastor of First United Methodist Church, stated that he appreciated the changes made by the applicant. He added that the removal of the church sign would create a financial burden. He expressed concern for the lack of parking in the area and that the proposed building was still too big for the property and would add to the stresses in the area.

Peggy Guernsey commented about insufficient parking, setback requirements for homeowners, and access during emergencies, such as fire.

Associate Planner Pearson stated that the Fire Department has reviewed plans and had not detected any problems.

John Wichman, Pastor of South Hayward Parish, spoke in support of the First United Methodist Church and asked for consideration for access to the back gate of the church.

Linda Pratt, from neighboring property, stated that parking is a major concern and the closet parking lot is in their building. Parking in the area is a problem.

Chair Sacks closed the public hearing at 9:10 p.m.

Associate Planner Pearson responded to questions from Commissioners.

Mr. Deepak, on behalf of Dr. Salwan, stated that the church can have access through their property to the back gate.

Commissioner Bogue moved, seconded by Commissioner McKillop, that the Planning Commission adopt the Initial Study, Mitigated Negative Declaration and Mitigation Monitoring Plan prepared pursuant to the California Environmental Quality Act (CEQA) guidelines; approve the site plan review application, subject to the attached findings and conditions; and deny the administrative use permit and variance applications for the remote parking lot subject to the attached findings.

Commissioner Bogue noted all improvements to the project. He stated church must remove sign, but they are gaining access to the rear of the property.

Commissioner Peixoto stated that he did not like the project and was unsure that the size of property was adequate for the project. He added that the parking issue has not been addressed. He urged the Commission to deny the project and wait until there sufficient property becomes available for development of a quality project for this site.

Commissioner Zermeño stated he appreciated the applicant's efforts in meeting all of their requests. He asked if there was a fund of some type to assist the church for the costs of moving the sign. He recalled that this is a downtown setting, and more homeowner units are needed. He would prefer three units. He noted that the Commission has been reviewing this project for several years and it is time to move on it because it would be beneficial for the downtown area. He offered a substitute motion, the same as Commissioner Bogue's, however adding a third unit as per staff recommendation. The motion was not seconded.

Commissioner McKillop asked if access to the church could be a condition. Assistant City Attorney Conneely noted that it could not be as an exaction but it could be done for the purposes of memorializing access, as the owner has already agreed to it.

Commissioner Thnay stated that there may not be an ideal solution for this location regarding use and parking problems. He suggested having the two units built a larger size. Regarding the appearance of



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the project, he asked for a friendly amendment adding awnings and capsule columns, to which Commissioner Bogue replied he would not accept awnings and it was noted that the columns were already a condition.

The motion **carried** by the following vote:

AYES:	COMMISSIONERS McKillop, Bogue, Thnay, and Zermeño
	CHAIRPERSON Sacks
NOES:	Peixoto
ABSENT:	None (One Vacancy)
ABSTAIN:	None

Chair Sacks called for a break at 9:30 p.m.

The meeting resumed at 9:40 p.m.

4. Revocation of Use Permit 93-50 – Initiated by the Planning Director – El Tapatio Nite Club (Licensee) / Peter and Carmen Sanchez (Owner) – Continued from July 29, 2004

Staff report submitted by Planning Manager Anderly, dated September 9, 2004, was filed.

Planning Manager Anderly presented the staff report. She responded to questions from the Commissioners. She stated that Lt. Bird from the Police Department was available to further discuss the matter and respond to additional questions.

Lt. Bird commented on the revocation of the ABC license, stating that there had been many incidents violating the permit. He referred to the copies of the incident reports which had been provided to the Commission. The findings showed that compared to other businesses in Hayward, there are many more incidents of greater violence, drug sales and prostitution. He personally had notified the owner of the problems. He responded to questions from the Commissioners.

Chair Sacks opened the public hearing at 9:45 p.m.

Ray Baker, Hayward attorney representing the business owner, Mr. Gonzalez, stated that due to City Hall being closed for the holiday, he had just received a copy of the staff report, and had not had sufficient time to review the report. Before revoking the permit, Mr. Baker asked that reasonable amount of time be allowed for the opportunity to discuss the matter with his client who was in Mexico.

Planning Manager Anderly noted that she had tried to reach Mr. Baker, but was unsuccessful. She added that she had spoken with Mr. Gonzalez in telephone conversations in July and today and he had indicated that he not interested in continuing the business.

Chair Sacks noted that this item was previously scheduled to be heard in July and then continued to

September, and information has been available since then.

Commissioner McKillop commented regarding the stack of reports of violations and incidents that had been provided to the Commission.

David Cota, representing COMMPRE, supported the revocation of the use permit.

Steven James Sanchez, son of the owner of the building for the last 54 years, stated there had been a few problems; however, he thought things had improved recently. He stated that the City should have notified the property owner sooner regarding the matter as they did not have an opportunity to do something about the situation in a timely manner. He noted that whenever the City has asked his father to do something, they have complied, and he displayed the City of Hayward Pride in Hayward Award they were previously given. He asked that the City not revoke the Use Permit as the building is set up for a bar and always will be. If the permit is revoked, the building will remain closed.

Joline Mallory, area resident, spoke against El Tapatio and supported the revocation of the Use Permit. She reported that the business has a history of problems. There have been Hells Angels driving up and down the street at all hours. They have witnessed public drinking, drug sales, graffiti, prostitution, and shootings.

Elaine Sunday commented that the property owner should have acted in a more responsible manner and not wait until this happens.

Chair Sacks closed the public hearing at 10:10 p.m.

Commissioner Bogue moved, seconded by Commissioner Zermeno, and unanimously carried, that the Planning Commission find that the proposed project is exempt from the California Environmental Quality Act (CEQA) guidelines, and revoke the use permit.

Chair Sacks reminded the owner/applicant regarding the 10-day appeal period.

ADDITIONAL MATTERS

5. Oral Reports on Planning and Zoning Matters

Planning Manager Anderly announced September 23, 2004, as the next meeting date for the Planning Commission. She also informed the Commission that at the previous Council Meeting, the Council upheld the Planning Commission decision on Crossroads Store.

6. Commissioners' Announcements, Referrals

Commissioner Bogue spoke about the landscape and excessive dirt on Redwood tree roots, in parking between Carlos Bee and Mission Blvd.

Commissioner Zermeno informed Commissioners about the Hayward Area Historical Society exhibition Precious Cargo: California Indian Cradle Baskets & Childbirth Traditions which will exhibit from September 20th through November 13th. He also expressed interest for a workshop regarding the



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Sign Ordinance.

Chair Sacks shared her extended road trip experience which among other aspects helped her appreciate the development rules that Hayward has in place.

APPROVAL OF MINUTES

Minutes of July 29, 2004 – Continued to September 23, 2004

ADJOURNMENT

The meeting was adjourned by Chair Sacks at 10:19 p.m.

APPROVED:

Julie McKillop, Secretary
Planning Commission

ATTEST:

Connie G. Macias
Deputy City Clerk